

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DAVID P. FONTAINE
Plaintiff

v.

U.S. INTERNAL REVENUE
SERVICE, ET AL.
Defendants.

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NO. 04-30080-MAP

MAY 21, 2004

MOTION TO DISMISS

Pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, the undersigned defendants hereby move for the dismissal of the complaint because this court lacks jurisdiction over the subject matter of the complaint in that this action is barred by the Tax Injunction Act, 28 U.S.C. § 1341, and the Eleventh Amendment to the Constitution of the United States.

For the reasons discussed in the accompanying memorandum of law in support of this motion to dismiss, the undersigned defendants respectfully request that the

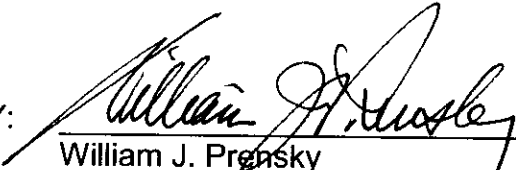
plaintiff's complaint be dismissed as to them based upon the plaintiff's failure to state a claim upon which relief can be granted.

DEFENDANTS

STATE OF CONNECTICUT,
CONNECTICUT DEPARTMENT OF
REVENUE SERVICES, CDORS
COMMISSIONER, GOVERNOR
JOHN ROWLAND, CONNECTICUT
COMMISSIONER GENE GAVIN

RICHARD BLUMENTHAL
ATTORNEY GENERAL

BY:

A handwritten signature in black ink, appearing to read "William J. Prenskey", is written over a horizontal line.

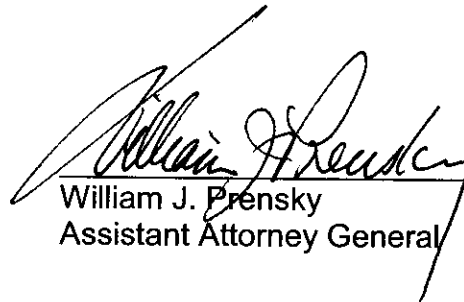
William J. Prenskey
Assistant Attorney General
Federal Bar No. ct08643
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120
Tel: (860) 808-5270
Fax: (860) 808-5385

CERTIFICATION

I hereby certify that on May 21st, 2004, a copy of the foregoing Motion to Dismiss was mailed via first class mail postage prepaid, to:

David P. Fontaine
68 Van Horn Street
West Springfield, MA 01089

William P. O'Neill
Attorney General's Office
1350 Main Street
Springfield, MA 01103-1629



William J. Prenskey
Assistant Attorney General